



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MGE - 174343

PRELIMINARY RECITALS

Pursuant to a petition filed on May 13, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Waukesha County Health and Human Services regarding Medical Assistance (MA), a hearing was held on August 16, 2016, by telephone.

The issue for determination is whether the agency correctly denied the petitioner's February 18, 2016 application for institutional long-term care.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Waukesha County Health and Human Services
514 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Waukesha County.

2. On February 18, 2016 the petitioner applied for MA benefits for institutional long term care.
3. On February 26, 2016 the agency sent the petitioner a verification request. The due date for the requested verification was March 18, 2016.
4. The agency met with the petitioner's power of attorney (POA), her grandson, in March 2016.
5. Following this meeting, the petitioner's POA retained an attorney to represent the petitioner.
6. On March 18, 2016 the petitioner's attorney contacted the agency requesting additional time to provide the requested verification. The agency worker sent the petitioner a letter stated that the due date for the verification would be March 31, 2016; however the letter went on to state "please know that there is a 30 day grace period after that date to provide the information and we will pick up where we left off."
7. On April 1, 2016 the agency sent the petitioner a notice stating that her MA application for institutional long term care had been denied for failing to provide the requested verification.
8. On April 29, 2016 the petitioner's attorney submitted over 500 pages of documents to satisfy the verification request.
9. The agency states that the petitioner provided incomplete verification. The agency's argument is that there were some items listed in a revocable trust document. The petitioner's POA states that he does not know where that property located. The agency is also concerned about over \$300,000 of questionable bank transactions.
10. The agency did not send the petitioner another denial notice or verification request after the April 1, 2016 notice.
11. On May 13, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

DISCUSSION

Medicaid rules require recipients to verify relevant information, including assets. Wis. Admin. Code, § DHS 102.03(3)(h). Agencies must allow at least 30 days from the date of application, or 10 days from the date of the request, whichever is later, to verify the information. Medicaid Eligibility Handbook, § 20.7.1.1. see also Wis. Admin. Code § DHS 102.03(1). At different times, the county agency requested that the petitioner verify different information and ultimately denied her application when it considered her response insufficient. Although the agency requested a number of different items, it is difficult to determine which allegedly missing items provide the basis of its denial.

The Medicaid Eligibility Handbook states the following with respect to verification:

The member has primary responsibility for providing verification and resolving questionable information. However, the IM worker must use all available data exchanges to verify information rather than requiring the applicant to provide it.

Assist the member in obtaining verification if he or she requests help or has difficulty in obtaining it.

Use the best information available to process the application or change within the time limit and issue benefits when the following two conditions exist:

1. The applicant/member does not have the power to produce verification, and
2. Information is not obtainable timely even with your assistance.

Do not deny eligibility in this situation, but continue in your attempts to obtain verification. When you have received the verification, you may need to adjust or recover benefits based on the new information. Explain this to the applicant/member when requesting verification.

Medicaid Eligibility Handbook, § 20.1.4.

This case is problematic for agency in large part because an agency worker sent a March 18, 2016 letter stating:

The new due date is March 31, 2106. If the case happens to close on that date, please know that there is a 30 day grace period after that date to provide the information and we will pick up where we left off.

Although he states that the due date is March 31, 2016, in the next sentence he gives the petitioner until April 30, 2016 to provide the requested verification. Based upon this written letter, the petitioner provided 500 pages of documents on April 27, 2016. The agency contends that this verification was still insufficient.

I am also unclear why the April 27, 2016 verification was insufficient. There was an issue with the petitioner's POA not being aware of the location of personal property listed in a revocable trust. This property appears to either be exempt or relevant to a divestment inquiry. Regardless denying the application for failing to provide this verification was incorrect.

Although I understand that there were also questionable bank transactions, the petitioner provided significant verification within the timeline stated by agency work. Denying the application for failing to timely provide verification was the incorrect action. Thus, I am remanding this case to the agency to continue processing the petitioner's application. If the agency believes that these questionable bank transactions are a divestment, then the agency may impose a divestment penalty sending the petitioner the appropriate notice. If the agency would like to see further verification before determining if there is a divestment and the amount of the divestment, the agency must request this additional verification giving the petitioner sufficient time to provide it. The petitioner must fully cooperate with this process.

CONCLUSIONS OF LAW

The agency incorrectly denied the petitioner's February 18, 2016 application for institutional long-term care.

THEREFORE, it is

ORDERED

That this case is remanded to the agency to continue processing the petitioner's February 18, 2016 application for institutional long-term care. The agency must provide the petitioner a notice within 10 days of the date of decision. The notice may include a denial or approval of the application based upon the information provided or a request for additional documentation. If the agency requests additional documentation or verification, the agency shall allow the petitioner sufficient time to provide the verification as explained in the MA Handbook.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 22nd day of September, 2016

\s _____
Corinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 22, 2016.

Waukesha County Health and Human Services
Division of Health Care Access and Accountability

